

FEB 13 2017

Edwards,Michelle

CITY CLERK

**From:** Loudermilk, Norman  
**Sent:** Monday, February 13, 2017 3:48 PM  
**To:** Earl Elliott; Auler,Amy; Nasser,Karrum; Crossen,Martha; Neil Garrison; Nation, Todd; Azar, George; DeBaun,Curtis; Don Morris  
**Cc:** Edwards,Michelle; Felling,Darrell  
**Subject:** FW: enforcement of fire safety laws by local municipalities  
**Attachments:** IC 36-8-17.pdf  
**Importance:** High

To all,

Here is the letter from the Indiana State Fire Marshal. I am sorry if there was any confusion that I caused. I hope that this clears up some of the information that I have been giving to you.

As always if you have any questions let me know



**Norman E. Loudermilk, CFI, CFEI, CVFI, CII**  
*Assistant Chief*



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**From:** Adkinson, Stan [<mailto:sadkinson@dhs.IN.gov>]  
**Sent:** Friday, February 10, 2017 12:38 PM  
**To:** Loudermilk, Norman  
**Subject:** enforcement of fire safety laws by local municipalities  
**Importance:** High

To Whom It May Concern,

I have spoken with a number of parties in reference to the fire inspection program for the City of Terre Haute. During two of these conversations, I did not have access to the Indiana Code Statute that governs these programs, and as a result I was not entirely correct. To ensure that everyone is on the same page, I am responding in writing and attaching a copy of the applicable IC statute.

As mentioned in earlier conversations, in general, a fire department may enforce under this chapter any fire safety law that is applicable to the jurisdiction served by the fire department; as stated in IC 36-8-17-6.

IC 36-8-17-8(a) states that a fire department serving an area that does not include a city may engage in an inspection program.

IC 36-8-17-8(b) states that a fire department serving **an area that includes** a city **shall** inspect every place and public way within the jurisdiction of the city.

Therefore in accordance with 36-8-17-8(b), the City of Terre Haute is required by the State to perform inspections.

If further assistance is required on this matter, don't hesitate to ask. I only request that you do so as a reply to this email.

Thank you

**Stan Adkinson CBO, CFI, CBI**  
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**IC 36-8-17**

**Chapter 17. Fire Safety Inspections; Arson Investigations**

**IC 36-8-17-1**

**"Commission" defined**

Sec. 1. As used in this chapter, "commission" refers to the fire prevention and building safety commission.

*As added by P.L.245-1987, SEC.21.*

**IC 36-8-17-2**

**"Fire department" defined**

Sec. 2. As used in this chapter, "fire department" means a paid fire department or a volunteer fire department that renders fire prevention or fire protection services to a political subdivision.

*As added by P.L.245-1987, SEC.21. Amended by P.L.1-1999, SEC.103.*

**IC 36-8-17-3**

**"Fire safety law" defined**

Sec. 3. As used in this chapter, "fire safety law" means any law, including rules and orders of the commission, safeguarding life or property from the hazards of fire or explosion.

*As added by P.L.245-1987, SEC.21.*

**IC 36-8-17-4**

**"Division" defined**

Sec. 4. As used in this chapter, "division" refers to the division of fire and building safety.

*As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006, SEC.576.*

**IC 36-8-17-5**

**Compliance with order directing fire department to assist division of fire and building safety**

Sec. 5. (a) The fire chief and the designees of the fire chief in every fire department are assistants to the state fire marshal.

(b) A fire department shall comply with an order issued by the division under IC 22-14-2-4 that directs the fire department to assist the division.

(c) This section also applies to a fire department established by the board of trustees of Purdue University under IC 21-39-7.

*As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006, SEC.577; P.L.29-2011, SEC.3.*

**IC 36-8-17-6**

**Enforcement of fire safety laws**

Sec. 6. A fire department may enforce under this chapter any fire safety law that is applicable to the jurisdiction served by the fire

department.

*As added by P.L.245-1987, SEC.21.*

#### **IC 36-8-17-7**

##### **Fire investigations; notice of crime; report; powers of fire department; subpoenas; discovery orders**

Sec. 7. (a) A fire department shall investigate and determine the causes and circumstances surrounding each fire occurring within the territory served by the fire department. The fire department shall begin the investigation when the fire occurs. The fire department shall immediately notify the division if the fire chief believes that a crime may have been committed and shall submit a written report to the division concerning every investigation at the end of each month. The fire department shall submit the report on the form prescribed by the division and shall include the following information in the report:

- (1) A statement of the facts relating to the cause and origin of the fire.
- (2) The extent of damage caused by the fire.
- (3) The amount of insurance on the property affected by the fire.
- (4) Other information required in the commission's rules.

(b) To carry out this section, a fire department may:

- (1) enter and inspect any real or personal property at a reasonable hour;
- (2) cooperate with the prosecuting attorney and assist the prosecuting attorney with any criminal investigation;
- (3) request that the office subpoena witnesses under IC 22-14-2-8 or order the production of books, documents, and other papers;
- (4) give oaths and affirmations;
- (5) take depositions and conduct hearings; and
- (6) separate witnesses and otherwise regulate the course of proceedings.

(c) Subpoenas, discovery orders, and protective orders issued under this section shall be enforced under IC 4-21.5-6-2.

*As added by P.L.245-1987, SEC.21. Amended by P.L.222-1989, SEC.19; P.L.1-2006, SEC.578.*

#### **IC 36-8-17-8**

##### **Inspection program; reports**

Sec. 8. (a) A fire department serving an area that does not include a city may engage in an inspection program to promote compliance with fire safety laws. Upon the request of an owner or a primary lessee who resides in a private dwelling, the fire department may inspect the interior of the private dwelling to determine compliance with IC 22-11-18-3.5. The fire department shall maintain a written report for each inspection. These reports shall be made available to the division upon request.



(b) The fire department serving an area that includes a city shall inspect every place and public way within the jurisdiction of the city, except the interiors of private dwellings, for compliance with the fire safety laws. Upon the request of an owner or a primary lessee who resides in a private dwelling, the fire department may inspect the interior of the private dwelling to determine compliance with IC 22-11-18-3.5. Except as otherwise provided in the rules adopted by the commission, the fire chief of the fire department shall specify the schedule under which places and public ways are inspected and may exclude a class of places or public ways from inspection under this section, if the fire chief determines that the public interest will be served without inspection. The fire department shall maintain a written report for each inspection. The fire department shall submit monthly reports to the division, on forms prescribed by the division, containing the following information:

- (1) The total number of inspections made.
- (2) The total number of defects found, classified as required by the office.
- (3) The total number of orders issued for correction of each class of defect.
- (4) The total number of orders complied with.

(c) A volunteer fire department may carry out inspections under this section only through an individual who is certified under IC 22-14-2-6(c).

*As added by P.L.245-1987, SEC.21. Amended by P.L.1-1999, SEC.104; P.L.1-2006, SEC.579; P.L.17-2008, SEC.6.*

#### **IC 36-8-17-9**

##### **Orders to cease and correct violations; emergency or temporary orders**

Sec. 9. (a) A fire department may issue orders under IC 4-21.5-3-6 to require a person to cease and correct a violation of the fire safety laws. The order must grant a reasonable time in which to correct a violation of law covered by the order.

(b) A fire department may issue an emergency or temporary order under IC 4-21.5-4 if the fire department determines that conduct or a condition of property:

- (1) presents a clear and immediate hazard of death or serious bodily injury to any person other than a trespasser;
- (2) is prohibited without a permit, registration, certification, release, authorization, variance, exemption, or other license required under IC 22-14 or another statute administered by the division and the license has not been issued; or
- (3) will conceal a violation of law.

(c) An emergency or other temporary order issued under subsection (b) must be approved by the state fire marshal. The approval may be communicated orally to the fire department. However, the division shall maintain a written record of the

approval.

(d) An order under IC 4-21.5-3-6 or IC 4-21.5-4 may include the following, singly or in combination:

(1) Require a person who has taken a substantial step toward violating a fire safety law or has violated a fire safety law to cease and correct the violation.

(2) Require a person who has control over property that is affected by a violation to take reasonable steps to:

(A) protect persons and property from the hazards of the violation; and

(B) correct the violation.

(3) Require persons to leave an area that is affected by a violation and prohibit persons from entering the area until the violation is corrected.

*As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006, SEC.580.*

#### **IC 36-8-17-10**

##### **Informal review of order; time to appeal; modification or reversal of order**

Sec. 10. (a) The division shall give a person who:

(1) is aggrieved by an order issued under section 9 of this chapter; and

(2) requests review of the order in verbal or written form;

an opportunity to informally discuss the order with the division. Review under this subsection does not suspend the running of the time period in which a person must petition under IC 4-21.5-3-7 to appeal the order.

(b) The division may, on its own initiative or at the request of any person, modify or reverse an order issued under section 9 of this chapter.

*As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006, SEC.581.*

#### **IC 36-8-17-11**

##### **Appeal of orders; administrative proceedings**

Sec. 11. (a) An order issued under section 9 or 10 of this chapter may be appealed to the commission under IC 4-21.5-3-7. A decision to deny a request to modify or reverse an order issued under section 10 of this chapter is not appealable.

(b) If an order issued under section 9 or 10 of this chapter is appealed, the commission or its designee shall conduct all administrative proceedings under IC 4-21.5. In its proceedings, the commission may modify or reverse the order.

*As added by P.L.245-1987, SEC.21.*

#### **IC 36-8-17-12**

##### **Enforcement of orders**

Sec. 12. The division may enforce an order issued under this chapter under IC 4-21.5-6.  
*As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006, SEC.582.*

**IC 36-8-17-13**

**Rules to implement chapter**

Sec. 13. The commission may adopt rules under IC 4-22-2 to implement this chapter.  
*As added by P.L.245-1987, SEC.21.*